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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,925	06/16/2005	Hartmut Flaig	05-409	8395
34704 7590 02/24/2010 BACHMAN & LAPOINTE, P.C. 900 CHAPEL STREET SUITE 1201 NEW HAVEN, CT 06510				
EXAMINER				
SAUTHER, FLEMING				
ART UNIT		PAPER NUMBER		
3677				
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02/24/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/539,925

Applicant(s)

FLAIG, HARTMUT

Examiner

Flemming Saether

Art Unit

3677

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 November 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 37-72 is/are pending in the application.
- 4a) Of the above claim(s) 47-71 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 37-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/22)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

Election/Restrictions

Claims 47-72 remain in this application as withdrawn. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 38-40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 38, there is no antecedent basis for “the beveled portion” and “the foot contour”. The claims were examined as best understood.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 38 and 39 are rejected under 35 U.S.C. 102(b) as being anticipated by Roberts (US 5,487,633). Roberts discloses a “plug” including a beveled portion (8)

transitioning between a shank thread (11) and a top plate (5); the bevel having an angle of 30° (see Fig. 1).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roberts. Roberts does not specific as to the size of the "plug" and does not disclose the diameter of the beveled portion at its foot. At the time the invention was made, it would have been obvious for one of ordinary skill in the art to make the foot diameter of the beveled portion with the claimed range because it is know to make plugs in different sized depending upon a particular application thus the size of the foot diameter would have been realized with an appropriately sized plug.

Claims 37 are 44 are rejected under 35 U.S.C. 102(b) as being anticipated by Wilson (US 1,716,334) in view or Hargis (US 6,854,942). Wilson shows a metal plug comprising a top plate, a polygonal blind hole (11) for a tool aligned with a further blind hole extending from an opposite end and an external thread. The further blind hole is shown to have a beveled inner edge. Wilson does not disclose beveled portion between the top plate and shank. Hargis discloses a sealing fastener including a

beveled portion (33) between a top plate (32) and a shank (12). At the time the invention was made, it would have been obvious for one of ordinary skill in the art to provide the plug of Wilson with a similar beveled portion in order to accommodate a two piece sealing washer as disclosed in Hargis. Hargis teaches that beveled configuration as an alternative to a configuration without a bevel (last paragraph) thus teaches that the combination with Wilson would yield the same predictable results.

Claims 41-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over modified Wilson as applied to claim 37 above, and further in view of Turkish (US 2,542,377). Modified Wilson does not disclose the further blind bore having an end wall tapering to an axis. Turkish discloses a plug with a further bore (24) wherein the further bore has an end which tapers to the axis. At the time the invention was made, it would have been obvious for one of ordinary skill in the art to have the further bore of modified Wilson taper to the axis as shown in Turkish because such a shape would be the result of the formation of the further bore with a convenient tool such as a drill tip. Again, the claimed size would have been because it is known to make plugs in different sizes depending upon a particular application thus the size of the depth and diameter of the further bore would have been realized with an appropriately sized plug.

Claims 45 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over modified Wilson as applied to claim 37 above, and further in view of Donovan (US 6,155,761). While modified Wilson shows the further bore to have an internal bevel it does

not disclose an external bevel. Donovan discloses a plug to having an external bevel leading to a thread (see Fig. 8) for the purpose of preventing cross threading. At the time the invention was made, it would have been obvious for one of ordinary skill in the art to provide the plug of modified Wilson with an external bevel leading to the thread for the same reason so as to prevent the threads from cross-threading.

Response to Remarks

Applicant argues the claims are allowable over Roberts (US 5,487,633) because a portion of dependent claim 38 was incorporated into independent claim 37. In response, the applicant's remarks are misplaced because they are based on incorrect facts. First, claim 38 is not and was not a dependent claim, it is an independent claim. Second, Roberts was applied to claim 38 not to claim 37; the reference to Wilson (US 1,716,334) was applied to claim 37 yet Wilson was not addressed by applicant. Nevertheless, a new rejection was applied to claim 37 due to the amendment to claim 37. Therefore the remarks are anyway moot but, applicant should correct the dependencies or remarks so that they correspond with one another.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Flemming Saether whose telephone number is 571-272-7071. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor Batson can be reached on 571-272-6987. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Flemming Saether
Primary Examiner
Art Unit 3677

/Flemming Saether/
Primary Examiner, Art Unit 3677